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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,257	01/22/2002	Frederick R. Bean	TN-2239	3692

7590 02/08/2005
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EXAMINER

NGUYEN, PHONG H

ART UNIT PAPER NUMBER

3724

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,257

Applicant(s)

BEAN ET AL. *CA*

Examiner

Phong H Nguyen

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, the phrase "said wearing ring not having any movable portions disposed between the table and base assembly" is confusing. The wear ring is not fixedly attached to the table or the base assembly to facilitate the rotation of the wear ring as stated in paragraph [0032] of the Specification. How can there be non-movable portions on the wear ring? Claim 1 will be interpreted without the phrase "said wearing ring not having any movable portions disposed between the table and base assembly".

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The status of claim 12 is indicated both "original" and "canceled". It is assumed that claim 12 is canceled.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

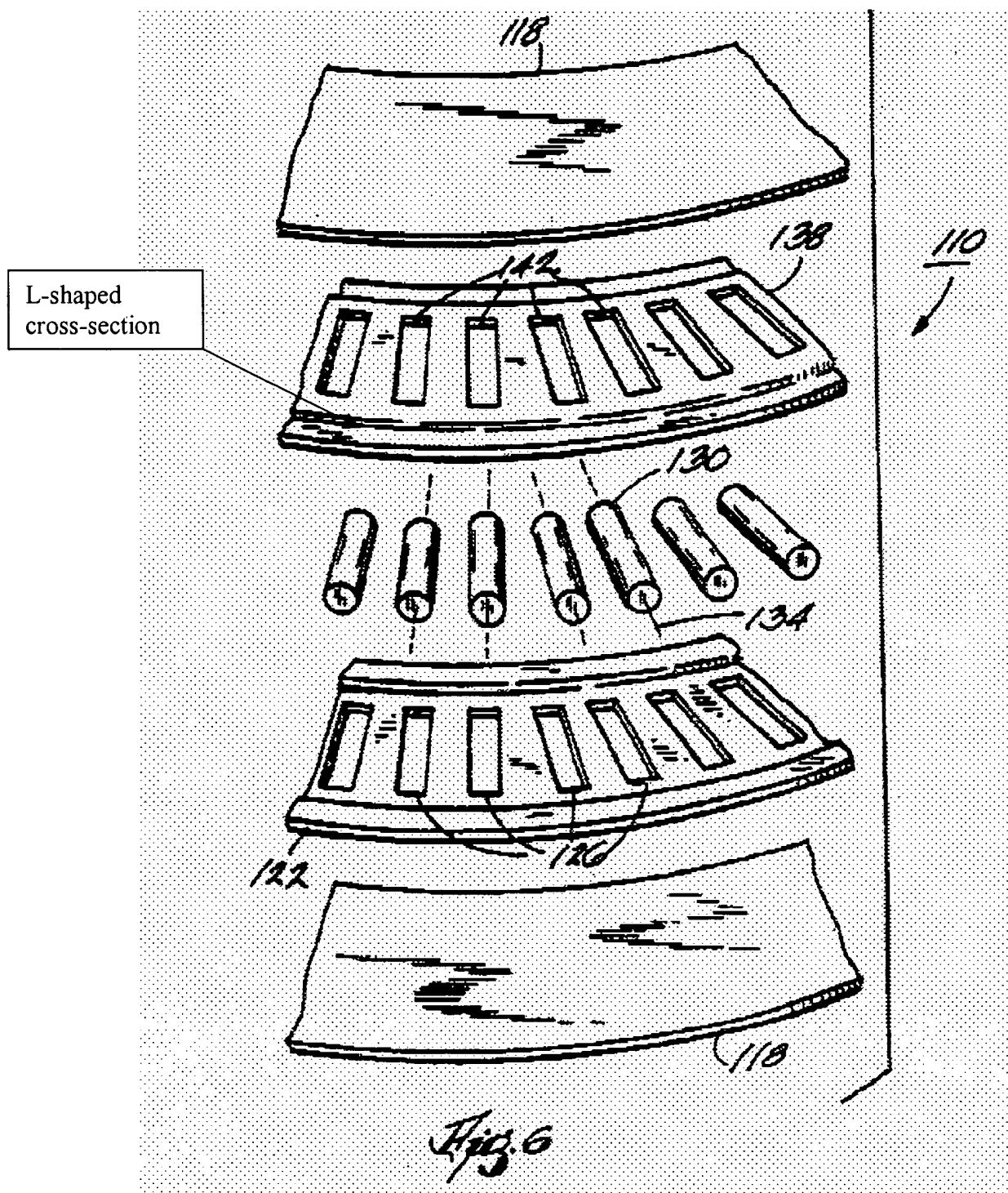
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Brault et al. (6,431,042 B1), hereinafter Brault.

Regarding claims 1-5, Brault teaches a saw assembly comprising a base 14 having a circular well 66, a table 182 rotatably attached to the base, a saw assembly 150 and a wearing ring 138 having a L-shaped cross-section. See Figs. 1 and 5-7.

It is noted that using metal to manufacture the ring 138 is old and well known in the art as admitted by the Applicants. See paragraph [0031] in the Specification.

Regarding claims 6 and 7, a wall 106 extending from the well is best seen Fig. 5.



Art Unit: 3724

6. Claims 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Stumpf et al. (6,418,830 B1), hereinafter Stumpf.

Stumpf teaches a miter saw assembly comprising a base 12, a table assembly 14 pivotably attached to the base, a fixed fence 48 and sliding fences 132 having a hole 178 for fixing an end stop fixture 68 thereto. See Figs. 1, 4, 5, 8A and 8B.

It is noted that providing an appropriate hole's size 176 to accommodate the screw 68 involves routine skill in the art.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

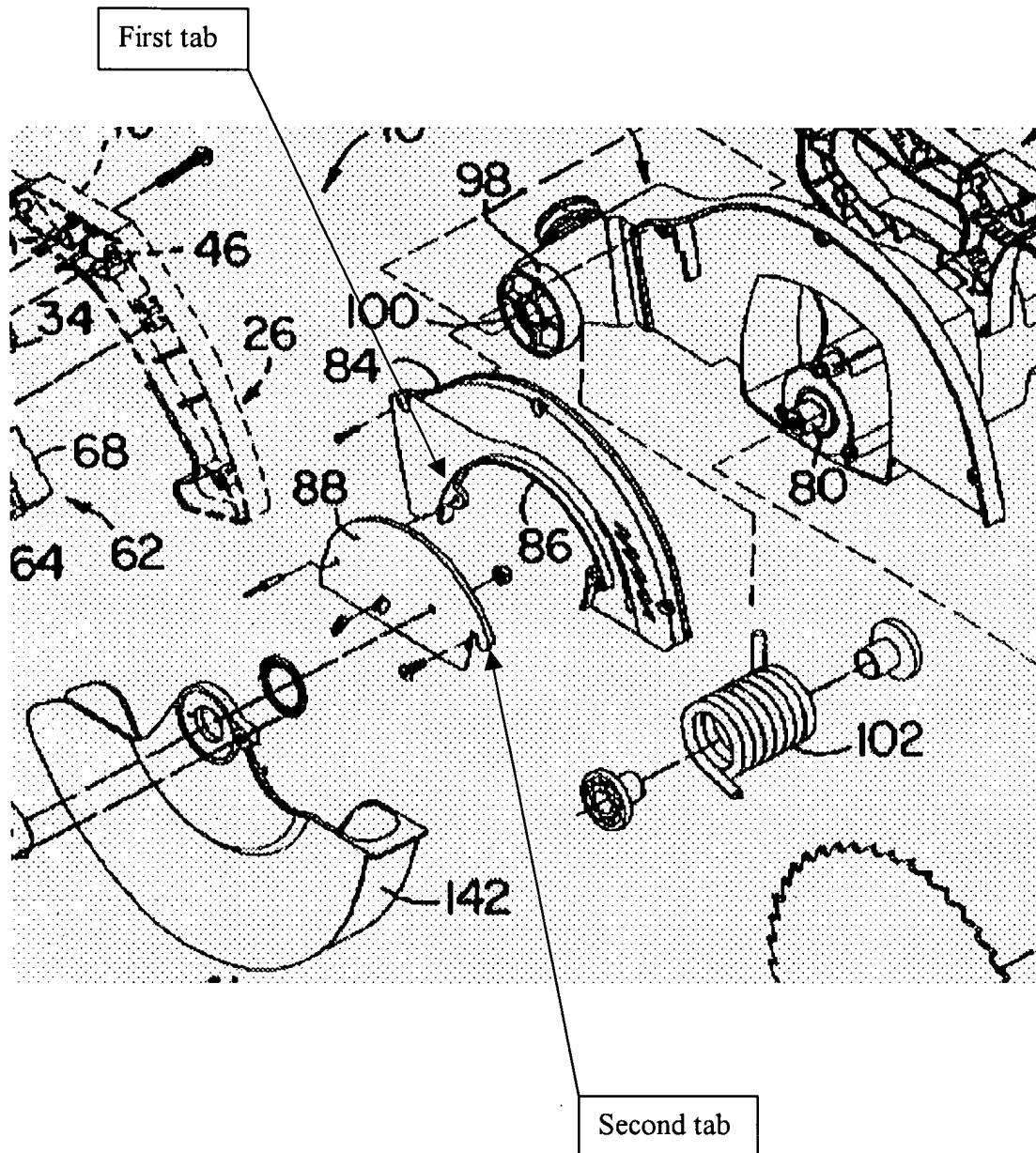
8. Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5,778,747).

Regarding claim 13, Chen teaches a chop saw assembly comprising a base assembly and a saw assembly. The saw assembly comprises an upper blade guard 84, a plate 88 and a lower blade guard 142. A screw secures the plate 88 to the upper blade guard 84.

A first tab on the upper blade guard 84 extends outwardly near the screw. The thickness of the first tab is the first distance. It is inherently to unscrew the screw a distance longer than the first distance to pivot the plate 88. See Figs. 1 and 3.

Regarding claims 14-16, a second tab on the plate is best seen in Fig. 3.

Art Unit: 3724



Response to Arguments

Art Unit: 3724

9. Applicant's arguments filed on 12/30/2004 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claim 1 are moot in view of 35 USC 112 rejection.

Applicant's arguments with respect to claim 9 are not found persuasive. Applicant does not define the limitation "an end stop fixture" in claim language; therefore, Stumpf et al. anticipate the Applicant's claimed invention.

Applicant's arguments with respect to claims 13-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

Art Unit: 3724

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

February 3, 2005



Allan N. Shoap
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